

ADMINISTRATIVE PANEL DECISION

Yggdrasil Malta Limited v. Tuan Ho
Case No. D2022-4830

1. The Parties

The Complainant is Yggdrasil Malta Limited, Malta, represented by Aera A/S, Denmark.

The Respondent is Tuan Ho, Viet Nam.

2. The Domain Name and Registrar

The disputed domain name <yggdrasilgame.com> is registered with NameCheap, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on December 16, 2022. On December 16, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 16, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 19, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on December 21, 2022.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the "Policy" or "UDRP"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules"), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the "Supplemental Rules").

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on December 28, 2022. In accordance with the Rules, paragraph 5, the due date for Response was January 17, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 18, 2023.

The Center appointed Pablo A. Palazzi as the sole panelist in this matter on January 25, 2023. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and

Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is a company incorporated in Malta. It was founded in 2013 and has offices in Poland, Sweden, Gibraltar, United Kingdom and Malta. The company is a provider of online gaming solutions. The Complainant products cover three product verticals namely casino slots, table games, and bingo, as well as Yggdrasil White Label Studios, YGS Masters, and Yggdrasil Dragons. The Complainant has acquired gambling licenses in several jurisdictions including the United Kingdom, Malta, Gibraltar, and Romania. Its gaming software is offered by recognized casinos such as William Hill, Mr Green, Betsson, Leo Vegas, Unibet, and Ladbrokes. The Complainant has over 150 games on the market.

The Complainant is the proprietor of multiple trademarks for Marks comprising or including the term YGGDRASIL, for example, the following:

- United States Registration No. 6405736 for YGGDRASIL (word mark), registered on July 6, 2021;
- - United States Registration No. 6405748 for YGGDRASIL (figurative), registered on July 6, 2021;
- - European Union Trade Mark No. 015691959 for YGGDRASIL (word mark), registered on November 4, 2016;
- - European Union Trade Mark No. 017763699 for YGGDRASIL (figurative), registered on June 30, 2018;
- - European Union Trade Mark No. 015059959 for YGGDRASIL GAMING, registered on July 20, 2016;
- - United Kingdom Trade mark No. UK00003559194 for YGGDRASIL MEGAPOT, registered April 2, 2021.

The Complainant also claims that its YGGDRASIL trademark has acquired extensive goodwill and reputation as a result of its trading activities. As for domain names, the Complainant owns multiple domain names incorporating its YGGDRASIL trademark including <yggdrasil.games> and <yggdrasil.game>.

The disputed domain name was registered on October 6, 2022, and is currently not in use. However, as evidenced in the Complaint, the disputed domain name previously resolved to a website offering gambling services.

5. Parties' Contentions

A. Complainant

The Complainant requests that the disputed domain name be transferred to the Complainant.

According to the Complainant, each of the three elements specified in paragraph 4(a) of the Policy are satisfied in the present case.

First, the Complainant submits that the disputed domain name is identical or confusingly similar to the YGGDRASIL trademark registrations of the Complainant.

Second, the Complainant argues that the Respondent has neither rights nor legitimate interests in the disputed domain name.

Third, the Complainant submits that the disputed domain name was registered and is being used in bad faith.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy lists three elements which a complainant must satisfy in order to succeed. The Complainant must satisfy that:

- (i) the domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of such domain name; and
- (iii) the domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The first element that the Complainant must establish is that the disputed domain name is identical or confusingly similar to the Complainant's trademark.

The Complainant holds several valid YGGDRASIL trademark registrations, which precede the registration of the disputed domain name.

The disputed domain name is confusingly similar to the Complainant's trademarks since it merely reproduces the YGGDRASIL trademark with the addition of the term "game".

The disputed domain name incorporates the Complainant's YGGDRASIL trademark in its entirety. As numerous UDRP panels have held, where a domain name incorporates the entirety of a trademark, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing.

The Panel finds the first element of the Policy has therefore been met.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances any of which is sufficient to demonstrate that the Respondent has rights or legitimate interests in the disputed domain name:

- (i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or
- (iii) you are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

There is no evidence of the existence of any of those rights or legitimate interests. The Complainant has not authorized, licensed, or permitted the Respondent to register or use the disputed domain name or its trademarks. The Complainant has prior rights in the trademarks which precede the Respondent's

registration of the disputed domain name. The Respondent's evidenced use of the Complainant's trademark to offer competing gaming services cannot constitute a *bona fide* offering of goods or services, nor a legitimate noncommercial or fair use. Moreover, the Respondent is not currently using the disputed domain name, which cannot constitute a *bona fide* offering of goods or services, nor a legitimate noncommercial or fair use. The Complainant has therefore established a *prima facie* case that the Respondent has no rights and legitimate interests in the disputed domain name and thereby shifted the burden to the Respondent to produce evidence to rebut this presumption.

The Respondent has failed to rebut the Complainant's *prima facie* case.

Furthermore, the Panel notes the composition of the disputed domain name, wholly incorporating the Complainant's YGGDRASIL trademark with a term directly related to the Complainant's business, carries a risk of implied affiliation (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 2.5.1).

Therefore, the Panel finds that the Complainant has satisfied the second requirement of paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

The Complainant must prove both that the disputed domain name was registered in bad faith and that it is being used in bad faith.

The Complainant's allegations with regard to the Respondent's registration and use of the domain name in bad faith have been considered by the Panel. These allegations have not been contested by the Respondent.

As indicated above, the Complainant's rights in the YGGDRASIL trademark predate the registration of the disputed domain name. This Panel finds that the Respondent was or should have been aware of the Complainant's trademark at the time of registration of the disputed domain name, as the Respondent included in the disputed domain name the Complainant's YGGDRASIL trademark with the term "game" that is related to the Complaint business.

The Respondent in all likelihood registered the disputed domain name with the expectation of taking advantage of the reputation of the Complainant's trademark.

The disputed domain name previously resolved to a website offering gambling services. The Panel finds such use indicates an intent to attract, for commercial gain, Internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's trademark.

Furthermore, the disputed domain name is currently not being used by the Respondent. UDRP panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding (see *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)). The well-known character of the trademark YGGDRASIL has been confirmed in previous UDRP cases (see, e.g., *Yggdrasil Malta Limited v. Privacy Service Provided by Withheld for Privacy ehf/Sophon Srey, Sary Sophot*, WIPO Case No. [D2022-1812](#)).

The failure of the Respondent to formally answer the Complainant's Complaint also suggests, in combination with other factors, bad faith on the part of the Respondent (*Bayerische Motoren Werke AG v. (This Domain is For Sale) Joshuathan Investments, Inc.*, WIPO Case No. [D2002-0787](#)).

Therefore, taking all the circumstances into account and for all the above reasons, the Panel concludes that the Respondent has registered and is using the disputed domain name in bad faith.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name, <yggdrasilgame.com>, be transferred to the Complainant.

/Pablo A. Palazzi/

Pablo A. Palazzi

Sole Panelist

Date: February 8, 2023